

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURWOOD L. PRICE,
Plaintiff,

Case No. 05-71403

vs.

Honorable Chief Judge Bernard A. Friedman
Honorable Steven D. Pepe

PATRICIA CARUSO,
Defendant.

/

**ORDER DENYING PLAINTIFF'S MOTIONS FOR DISCOVERY (Dkt. #60),
AND FOR IMMEDIATE CONSIDERATION (Dkt. # 58) AND GRANTING IN PART
DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL (Dkt. #59)**

These motions were referred to the undersigned for hearing and determination pursuant to 28 U.S.C. §636(b)(1)(A).

In his present motions Plaintiff seeks (a.) immediate consideration of the motions at issue (Dkt. #58), (b.) a discovery conference (Dkt. #60) and (c.) an appointment of counsel (Dkt. # 59).

Plaintiff's motion for immediate consideration is DENIED.¹

In a previous order the undersigned stayed discovery in this matter pending the outcome of the parties' cross motions for reconsideration (Dkt. # 51). Those motions have now been denied (Dkt. # 52) and the stay on discovery shall be lifted. In the previous order staying discovery Defendant was ordered to treat Plaintiff's September 22, 2006, motion (Dkt. #42) as a formal request

¹ It should be noted that the law cited by Plaintiff in support of his motion, 28 U.S.C. §473(a)(2)(B), advocates setting early and firm trial dates and does not support a request for an expedited hearing regarding appointment of counsel or a discovery dispute. Motions are addressed by the undersigned as soon as practicable with consideration for the date on which they are filed and the urgency and complexity of the matter at issue. Filing a separate motion for an expedited hearing without proper legal support which must then be addressed by the court does nothing to expedite hearing of the matter.

for discovery and respond as required by the Federal Rules of Civil Procedure, should the stay be lifted. The present motion, though titled as a motion to compel, appears to seek only a discovery conference or a pre-trial conference. Defendant has responded to Plaintiff's motion to compel by providing a copy of the response she submitted on February 23, 2007, to the request in the September 22, 2006, motion (Dkt. #63). Because Defendant has responded to the outstanding discovery identified by Plaintiff and a discovery conference is not required in the present matter pursuant to Fed. R. Civ. P. 26(f) & (a)(1)(e), Plaintiff's motion is DENIED AS MOOT.

Plaintiff's motion requesting "legal counsel to assist him in preparing for trial . . . only, and not to represent him at trial or any future proceedings in this matter" is GRANTED IN PART. Because this request is somewhat unusual, in that it is more typical for one to seek counsel for representation and not just assistance, the court cannot guarantee that those counsel that have volunteered to represent indigent clients will be willing to take on this task. Further, the office responsible for assigning counsel for indigent clients is very busy and cannot be expected to continue contacting attorneys until a willing participant is found. Therefore, Plaintiff's request for assistance will be forwarded to the next attorney on the *pro bono* counsel list, who will be asked whether they wish to assist Plaintiff in his representation. Plaintiff will then be informed whether his request for assistance has been accepted.

SO ORDERED.

Dated: March 5, 2007
Ann Arbor, Michigan

Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that on March 7, 2007, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Linda M. Olivieri, and I hereby certify that I have mailed by United States Postal Service a the paper to the following non-ECF participants: Curwood Price, #220572, Muskegon Correctional Facility, 2400 S. Sheridan Rd., Muskegon, MI 49442

s/ James P. Peltier
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